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William Gehrke

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The Mozambique Crisis: A Case for United Nations Military Intervention

Introduction

The human rights situation in Mozambique is currently among the worst in the world, a situation some commentators have called a holocaust. An insurgency has displaced or seriously affected almost six million Mozambicans. Over 350,000 Mozambicans have fled the country, more than half fleeing to minority-ruled South Africa. Mozambicans who remain in Mozambique face starvation and heinous brutality. This tragedy, however, has gotten little attention from the international community, and Mozambicans have become a forgotten people on a neglected continent. Due to foreign military intervention, massive refugee problems, threats of fighting spreading to neighboring states, and the degree and scope of human rights violations, the effects of the insurgency have gone beyond Mozambique's borders making Mozambique's civil war a matter of international concern. The situation will probably not improve until the civil war ends; unfortunately, however, the war is currently at a violent stalemate. Foreign military intervention may be the only possible means of ending the insurgency and improving life for Mozambique's civilian population.

Numerous nations currently provide military aid to Mozambique; however, unilateral foreign military aid has not ended the insurgency. Furthermore, unilateral military aid may violate international law and disrupt the United Nations' peacekeeping function. Unlike unilateral military intervention, United Nations military intervention could effectively end the insurgency and would not violate international law; indeed, the United Nations was designed to be the world's peacekeeper. Increasing use of the United Nations' peacekeeping mechanisms would increase the world's confidence in the United Nations. Given Mozambique's political non-alignment and its urgent need for aid, Mozambique presents an opportunity for beneficial United Nations military intervention.

The purpose of this Note is to discuss, using Mozambique as an example, the problems the United Nations faces in militarily intervening in civil conflicts that have international effects. This Note also seeks to demonstrate why the United Nations should intervene in Mozambique.

To become an effective force for world peace, the United Nations must have a role in ending civil conflicts that have international effects.

Part I discusses the political forces in Mozambique and establishes that Mozambique is non-aligned politically, thus increasing the possibility of United Nations intervention. Part II describes the current situation in Mozambique for civilians, demonstrating that the situation is serious enough to merit intervention, that the situation is largely due to the insurgency, and that foreign military aid probably will be necessary to end the insurgency. Part III lists the benefits of United Nations military intervention and the drawbacks of unilateral military intervention. Part IV discusses the hurdles to United Nations military intervention in civil disputes, and argues that the United Nations could overcome these hurdles in the case of Mozambique. Part IV also proposes means to extend the United Nations' power to intervene in civil disputes with international effects.

I. Political Forces in Mozambique

In Mozambique, which is a non-democratic nation, Front for the Liberation of Mozambique (FRELIMO) has been the sole official political party since the nation was liberated in 1975. While FRELIMO has officially made Mozambique a communist nation,¹ Mozambique has recently moved towards capitalism and towards friendship with many West Bloc nations.² Currently, Mozambique receives aid from both East Bloc and West Bloc nations and appears politically non-aligned.

FRELIMO is currently involved in a violent civil conflict with the Mozambican National Resistance (RENAMO), a loosely organized group comprised of numerous FRELIMO enemies whose primary goal is to overthrow FRELIMO and its control of Mozambique's government.³ FRELIMO has, however, retained control of the government and officially continues to govern the nation.

A. The Official Governing Party of Mozambique: FRELIMO

1. *FRELIMO's Rise to Power*

Prior to gaining independence in 1975, Mozambique was a Portuguese colony.⁴ In 1962, various groups supporting liberation from Portugal formed FRELIMO.⁵ FRELIMO developed an administrative structure

1. See *infra* note 19 and accompanying text.

2. See *infra* notes 20-39 and accompanying text.

3. See *infra* note 43 and accompanying text.

4. Portugal gained control of Mozambique in 1912. T. BRENNAN, REFUGEES FROM MOZAMBIQUE: SHATTERED LAND, FRAGILE ASYLUM 10 (1986).

5. *Id.* at 11. The groups that formed FRELIMO include the Mozambican African Nationalist Union (Manu), the Democratic National Union of Mozambique (UDENAMO), the African Union for Independent Mozambique (UNAMI), and a Marxist group that would come to control FRELIMO. Serapiao, *Crisis of Political Legitimacy*, AFR. CONCORD MAG., Jan. 16, 1986, reprinted in *Mozambique and United States Pol-*

consisting of political and military branches.⁶ By 1964, the group was engaged in an intensive guerrilla struggle against Portuguese control.⁷ Despite early ideological disputes and the assassination of its first president,⁸ FRELIMO gained popular support, military strength, and formal recognition by the OAU ("Organization of African Unity") as the legitimate representative of the Mozambican people.⁹ In 1974, following a military coup in Portugal, Mozambique was granted full independence as of June 25, 1975, and FRELIMO began its reign as the nation's official governing party.¹⁰

2. *A Chronological Overview of FRELIMO's Political Orientation*

Since its inception in 1962, FRELIMO has experienced internal disputes concerning the organization's proper political stance.¹¹ Moreover, FRELIMO's choice of political allies has been erratic, but pragmatic.¹² The organization's internal disputes were most severe until 1970. FRELIMO's radical branch, following Marxist-Leninist teachings, aspired to end all capitalist and colonial exploitation.¹³ The conservative branch, on the other hand, merely sought to replace the white Portuguese rulers with black Mozambican rulers while maintaining a capitalist system.¹⁴

Following the 1970 assassination of Eduardo Mondlane, FRELIMO's first president, Samora Machel, a leader of FRELIMO's radical branch, ascended to FRELIMO's presidency.¹⁵ From 1970 to 1974, under Machel, FRELIMO received financial and military support from

icy: *Hearing Before the Subcomm. on African Affairs of the Comm. on Foreign Relations*, 100th Cong., 1st Sess. 103 (1987) [hereinafter *Hearing*].

6. T. BRENNAN, *supra* note 4, at 11.

7. *Id.*

8. FRELIMO's first president, Eduardo Mondlane, was a dedicated Mozambican nationalist who was a faculty member at Syracuse University at the time he was elected. *Id.* at 11.

9. *Id.*

10. Indeed, FRELIMO is Mozambique's only official party. FRELIMO gained sole control because of its strength at the time of the 1974 coup in Lisbon. *Id.* at 11-12. By the time of the coup, FRELIMO controlled at least one-third of Mozambique and established political organization and military control. *Id.* at 12.

While FRELIMO was popular for bringing independence to Mozambique, the population only marginally supported its economic policies. *Id.* Portugal's original plan for Mozambique's independence was to have FRELIMO compete with other groups for popular support in a democratic government, but FRELIMO's strength and control over the region caused Portugal to concede to FRELIMO's demand for sole control of the government. *Id.*

11. Gunn, *Learning from Adversity: The Mozambican Experience*, in REGIONAL CONFLICT AND U.S. POLICY: ANGOLA AND MOZAMBIQUE 143-44 (R. J. Bloomfield ed. 1988). For the view of a radical FRELIMO member towards early disputes within FRELIMO, see Interview with Marcelino dos Santos, First Vice-President of FRELIMO, reprinted in LSM INFORMATION CENTER, INTERVIEWS IN DEPTH MOZAMBIQUE FRELIMO (1971) [hereinafter Interview with dos Santos].

12. See *infra* notes 18-39 and accompanying text.

13. See Interview with dos Santos, *supra* note 11, at 1.

14. *Id.* at 2.

15. Gunn, *supra* note 11, at 144.

numerous communist nations, especially China.¹⁶ It is unclear to what extent FRELIMO's early communist stance was a result of aid from communist nations and a lack of support from capitalist nations. Evidence suggests that FRELIMO's radical branch may have been receptive to capitalist ideals had capitalist nations offered early support.¹⁷

From its liberation in 1975 until the early 1980s, Mozambique's policies were largely communist,¹⁸ and foreign aid came chiefly from the Soviet Union. Mozambique solidified its status as a Marxist state when it signed a twenty year Treaty of Friendship and Cooperation with the Soviet Union in 1977.¹⁹

Despite aid from the Soviet Union, Mozambique suffered an economic crisis in the late 1970s.²⁰ Many reasons explain this economic collapse. First, aid from the Soviet Union was meager.²¹ Second, FRELIMO's economic policies failed.²² Third, military attacks devastated Mozambique.²³ The failure of the economy ultimately led FRELIMO to rethink its communist stance in hopes of soliciting aid from the West.²⁴ Thus, while Mozambique continued to rely on Soviet aid, Machel intensely lobbied Western nations for additional aid. In 1985, the United States responded by giving Mozambique sixty-six million dollars in non-military aid.²⁵ Meanwhile, other non-communist states, such as Britain and Zimbabwe, gave Mozambique limited military support.²⁶ In addition to warming relations with capitalist states, in 1983 Machel adopted internal economic reforms, many of which were inconsistent

16. *Id.* at 145. Searching for support, Machel visited the Soviet Union, Bulgaria, Romania, and East Germany. *Id.*

17. *See id.* at 144.

18. *Id.* at 152.

19. Campbell, *Soviet Policy in Southern Africa: Angola and Mozambique*, in REGIONAL CONFLICT AND U.S. POLICY: ANGOLA AND MOZAMBIQUE 103 (R. J. Bloomfield ed. 1988).

20. Gunn, *supra* note 11, at 153. While Mozambique had an economic surplus of \$41 million in 1976, by 1980 it had a \$360 million deficit. *Id.* Mozambique is an agriculturally rich nation, yet it was forced to import much of its food supply. *Id.*

21. It is estimated that the Soviet Union provided Mozambique with only \$175 million of economic aid between 1978 and 1982. Campbell, *supra* note 19, at 107.

22. For example, the state-owned farms suffered from gross mismanagement. Gunn, *supra* note 11, at 154. Productivity decreased due to the workers' lack of motivation. *See id.*; and *Hearing, supra* note 5, at 103. Indeed, farm production may have dropped 75% between 1981 and 1987. *Id.* at 206 (response by Edward L. Saiers to question asked by Senator Simon).

23. *See* Gunn, *supra* note 11, at 153.

24. *Id.* at 155.

25. *Id.* at 161-62, 166. States lobbied by Machel included the U.S., Portugal, France, Britain, Holland, and Belgium. *Id.* at 162.

The U.S. State Department recommended donating \$1.15 million in military aid, but this proposal was rejected by Congress. *Id.* at 166. Congress, evidencing its reluctance to militarily support a non-democratic state, would only have approved this military aid if Mozambique had agreed to hold popular elections. *Id.*

26. *Id.* at 167. For example, British officers began training Mozambican soldiers in Zimbabwe. Campbell, *supra* note 19, at 107.

with Mozambique's strict socialist system.²⁷

In 1986, Machel died in a plane crash and Joaquim Chissano, Mozambique's current president, became the third leader of FRELIMO and the second president of Mozambique.²⁸ Under Chissano, Mozambique has maintained warm relations with the Soviet Union.²⁹ Because Chissano has continued Machel's policy of strengthening relations with Western nations and implementing capitalist economic policies, the U.S. and Britain have continued to economically aid Mozambique.³⁰ Chissano has also succeeded in obtaining much-needed military support from neighboring Front Line States,³¹ and, as a result, the Front Line forces have had some success in combating RENAMO.³²

27. See Gunn, *supra* note 11, at 160-61. For example, the Mozambican Congress called for decentralization of planning and endorsed private shops. *Id.* Furthermore, the government transferred many farms to private control and decreased price-setting. *Hearing, supra* note 5, at 70 (prepared statement of Edward L. Saiers). See generally *id.* at 70-73.

A 1987 program included many of the following reforms: flexible exchange rates for imports and exports, flexible interest rates, liberalization of exchange and trade regimes, market-determined prices of consumer goods, reduced centralization of the economy, and greater competition in agricultural marketing. *Hearing, supra* note 5, at 204-05 (responses of Edward L. Saiers to questions asked by Senator Simon). Between 1984 and 1987 at least 30 firms were privatized. *Id.* at 55 (prepared statement of Chester Crocker).

28. Campbell, *supra* note 19, at 107. The cause of the crash is shrouded in mystery. Many Mozambicans believe South Africa caused the crash. *Id.* Machel's successor, Chissano, however, has stated that the evidence is insufficient to implicate South Africa. Gunn, *supra* note 11, at 170 (quoting Chissano: "We do not know who [caused the crash]").

29. See Gunn, *supra* note 11, at 172.

30. *Id.* Between January 1, 1987, and May 21, 1987, Britain gave Mozambique \$153 million of aid, making Mozambique the largest single recipient of British aid as of May 21 of that year. Godwin, *Mozambican Misconceptions*, Wall St. J., May 21, 1987, at 28, col. 4, reprinted in *Hearing, supra* note 5, at 109.

In 1985, U.S. bilateral assistance to Mozambique exceeded \$43 million. *Hearing, supra* note 5, at 144 (responses of Chester Crocker to questions asked by Senator Simon). In 1987 the U.S. pledged \$75 million worth of humanitarian aid. *Id.* at 56 (prepared statement of Chester Crocker). Between 1981 and 1987, total U.S. direct aid to FRELIMO was \$78 million, and U.S.-backed multilateral aid totaled \$154 million. Godwin, *supra*. By U.S. law, all economic development funds must go directly to the private sector "[t]o the maximum extent practicable." *Hearing, supra* note 5, at 14 (statement of Mr. Saiers).

In 1985, 16 non-communist states economically aided Mozambique, including the following: Australia (\$1.4 million), Austria (\$2.9 million), Belgium (\$1.3 million), Canada (\$4.8 million), Denmark (\$6.1 million), Finland (\$3.2 million), France (\$20.3 million), West Germany (\$4.8 million), Italy (\$28.6 million), Japan (\$4.3 million), Netherlands (\$24.8 million), Norway (\$21.2 million), Sweden (\$34 million), Switzerland (\$3.5 million), United Kingdom (\$10.9 million), U.S. (\$47 million). *Id.* at 154 (responses of Chester Crocker to questions by Senator Helms).

31. The Front Line States, named because of their proximity to South Africa, are Angola, Botswana, Mozambique, Tanzania, Zambia, and Zimbabwe.

32. Gunn, *supra* note 11, at 170. Between December 1986 and March 1987, forces from Zimbabwe and Tanzania aided FRELIMO in halting a major RENAMO offensive and retook land, highways, towns, and a bridge. *Id.* at 170. Zimbabwe's military involvement has been compared to the U.S.'s involvement in Vietnam; one report says Zimbabwe has contributed over 12,000 soldiers at a cost of over \$350

Currently, Mozambique is moving from an Eastern to a Western embrace, having "freed itself from the grip of Soviet and East Bloc clientelism."³³ While some commentators doubt the sincerity of this shift,³⁴ no one disputes its occurrence.³⁵ At least two reasons explain this change in Mozambique's political orientation. First, Mozambique's socialist system simply failed.³⁶ Second, Mozambique has traditionally allowed the political inclinations of its foreign benefactors to affect its internal policies, and Western support has increased while Soviet support has remained constant with no signs of increasing.³⁷ Pragmatically, Chissano has stated that he wishes Mozambique to be an ally of both Eastern and Western nations.³⁸ Thus, under FRELIMO, Mozambique is in a unique position in current world politics: despite Mozambique's official alignment with the Soviet Union under the Treaty of Friendship and Cooperation, Mozambique receives aid from both Eastern and Western nations and appears politically non-aligned.³⁹

million. *Hearing, supra* note 5, at 109. Other reports of the number of Zimbabwean soldiers aiding Mozambique vary from 6,000 to 20,000. *See id.* at 164 (responses of Chester Crocker to questions by Senator Helms); *id.* at 195 (responses of Steven Metz to questions asked by Senator Helms); and *id.* at 203 (responses of Jose A. Francisco to questions asked by Senator Helms).

33. Rotberg, *Introduction*, in *REGIONAL CONFLICT AND U.S. POLICY: ANGOLA AND MOZAMBIQUE 4* (R. J. Bloomfield ed. 1988); *see Hearing, supra* note 5, at 52 (prepared statement of Chester Crocker). Mozambique never fully complied with Soviet requests, demonstrating Mozambique's limited deference to the Soviet Union. For example, Mozambique has not given military access rights to the Soviet Union and signed the Nkomati Accord with South Africa despite Soviet objections. *Id.* at 4 (statement of Chester Crocker).

34. *See Hearing, supra* note 5, at 34-35; *id.* at 189 (responses of Thomas Henriksen to questions asked by Senator Helms); *The Times* (London), Mar. 7, 1987, at 6, col. 4, *reprinted in Hearing, supra* note 5, at 111-12.

35. *See supra* notes 27, 30, 33.

36. *See, e.g.,* Gunn, *supra* note 11, at 153-60; *Hearing, supra* note 5, at 126 (prepared statement of Steven Metz). A lack of economic incentives for workers hurt the agriculture industry. *See* Gunn, *supra* note 11, at 154. Also, the state paid paltry prices for crops produced by the private sector. Mismanagement of state-owned farms and state buying organizations discouraged production. Mozambique's bureaucracy was large and lacked initiative. Peasant farmers received virtually no aid. *Id.*

37. Campbell, *supra* note 19, at 108. FRELIMO has never been content with the level of support from the Soviet Union. *Hearing, supra* note 5, at 125 (prepared statement of Steven Metz). Soviet aid to Mozambique has increased only "moderately" from the small amounts previously given, and Gorbachev has not indicated that the Soviet Union will increase aid to Third World Marxist regimes. *See* Campbell, *supra* note 19, at 107-08. Even if Soviet aid to Third World nations were to increase, Mozambique would probably be among the last nations to receive such aid because Mozambique is viewed as the "weakest link" in the chain of Third World Marxist nations. *Id.* at 112.

38. Gunn, *supra* note 11, at 172.

39. *See* Rotberg, *supra* note 33, at 4; *Hearing, supra* note 5, at 3 (prepared statement of Chester Crocker).

B. Opposition to FRELIMO: RENAMO

In 1975, FRELIMO aided the battle against white-minority regimes in Southern Africa by providing a launching point for guerrilla attacks against Ian Smith's minority-ruled government in Southern Rhodesia. These attacks forced Smith to flee.⁴⁰ Smith responded by organizing RENAMO, a group comprised largely of Portuguese speaking whites as well as Mozambicans and other Africans discontented with FRELIMO's faltering Marxist policies.⁴¹ Although RENAMO has developed some detailed political goals,⁴² the group's main objective is apparently the overthrow of FRELIMO's control of Mozambique's government.⁴³

Originally, RENAMO's support came chiefly from Rhodesia.⁴⁴ In 1980, when Rhodesia was liberated and became Zimbabwe, South Africa emerged as a primary source of RENAMO's financial and military support.⁴⁵ Portugal also aided RENAMO, probably in retaliation for property lost by industrialists when FRELIMO gained control of Mozambique.⁴⁶ RENAMO obtained further support from various Islamic countries because of religious concerns.⁴⁷ Whether South Africa still covertly aids RENAMO is unclear.⁴⁸

RENAMO's insurgency has been notoriously brutal and effective.⁴⁹ By 1985 RENAMO had over 14,000 combatants,⁵⁰ and over 22,000 by

40. T. BRENNAN, *supra* note 4, at 13.

41. *Id.*; Rotberg, *South Africa's Regional Hegemony*, in REGIONAL CONFLICT AND U.S. POLICY 78 (R. J. Bloomfield ed. 1988).

42. Although RENAMO has produced a manifesto stating its goals regarding politics, economics, justice, health and education, international politics, and a constitution, the manifesto is very brief and general. *RENAMO's Provisional Economic Manifesto for Free Mozambique*, reprinted in *Hearing*, *supra* note 5, at 120.

43. Rotberg, *supra* note 41, at 78; *Hearing*, *supra* note 5, at 148 (responses of Chester Crocker to questions by Senator Simon); *Id.* at 212-13 (responses of Terry Jeggles to questions asked by Senator Simon). RENAMO has become a catch-all for those opposed to FRELIMO. Godwin, *supra* note 30, at 28, col. 4, *Hearing*, at 109.

44. *See* T. BRENNAN, *supra* note 4, at 14.

45. Gunn, *supra* note 11, at 158.

46. *Id.* Portugal probably no longer aids RENAMO.

47. *Id.* RENAMO convinced some Islamic states that FRELIMO was suppressing the Islamic religion, which was popular in some regions of Mozambique. *Id.*

48. *Hearing*, *supra* note 5, at 127 (prepared statement of Steven Metz); *see id.* at 58 (prepared statement of Chester Crocker). Under the Nkomati Accord, signed in 1984, South Africa promised not to aid RENAMO, and Mozambique pledged not to provide sanctuary for African National Congress forces. South Africa has undoubtedly violated this accord. *See, e.g., id.* South Africa has repeatedly attempted to destabilize FRELIMO's control. In 1981 and 1982, South Africa attacked Mozambique. Gunn, *supra* note 11, at 158-59. Beginning in 1982, guerrillas that were "armed, trained, financed, transported, and supplied by South Africa" attacked all ten of Mozambique's provinces. Campbell, *supra* note 19, at 104.

49. "Imagine California with all its roads cut, with most of its country people driven into towns and cities, with its farms abandoned and with its huddled, defenseless population having to be fed and clothed by air. Welcome to Mozambique." Vonnegut, *My Visit to Hell*, PARADE, Jan. 7, 1990, at 17.

50. T. BRENNAN, *supra* note 4, at 14.

1987.⁵¹ Its attacks have caused the collapse of Mozambique's economic infrastructure and prevented FRELIMO from rebuilding Mozambique's economy.⁵² RENAMO's greatest military success has been in Mozambique's rural areas, forcing almost the entire civilian population of Mozambique to seek refuge in the larger population centers.⁵³ While it is unclear whether RENAMO can actually defeat Mozambique's forces, FRELIMO's army has little chance of defeating RENAMO without a substantial increase in military support.⁵⁴

II. The Need for a Solution

The human rights situation in Mozambique is among the worst in the world,⁵⁵ largely due to RENAMO's insurgency.⁵⁶ The people of Mozambique will continue to suffer until the civil war ends.⁵⁷ Unfortunately, no end is in sight for the conflict. The strong antagonism between FRELIMO and RENAMO, as well as the limited organizational structure of RENAMO, makes a political solution highly unlikely. Given the current military stalemate, a victory by either party is highly improbable without increased foreign intervention.⁵⁸

A. Life for Civilians

RENAMO's insurgency, which is responsible for brutal acts against civilians, along with droughts and failed economic policies have turned Mozambique into a land of carnage and human suffering.⁵⁹ It is estimated that RENAMO's insurgency has displaced or seriously affected

51. *Hearing, supra* note 5, at 173 (responses by Chester Crocker to questions by Senator Helms).

52. T. BRENNAN, *supra* note 4, at 15. RENAMO's control over key economic links has increased Southern Africa's dependence on South Africa. *Id.*

53. *See id.* at 14.

54. *Id.* One report suggests RENAMO controls at least one-third of the population. *Mozamthiopia*, Wall St. J., May 11, 1987, at 26, col. 1, reprinted in *Hearing, supra* note 5, at 114. Another report estimates RENAMO has operated in—but not necessarily controlled—only 10% to 15% of the nation. *Hearing, supra* note 5, at 193 (response of Steven Metz to questions by Senator Simon). RENAMO has claimed control of 85% of Mozambique, although this claim seems unfounded. *Id.* at 213 (responses of Terry Jegggle to questions by Senator Simon).

55. *See Hearing, supra* note 5, at 197 (responses of Thomas Brennan to questions asked by Senator Simon).

56. *See infra* notes 59-65 and accompanying text.

57. *See infra* notes 59-65 and accompanying text.

58. *See infra* notes 66-73 and accompanying text.

59. *See generally* T. BRENNAN, *supra* note 4; Gunn, *supra* note 11, at 158; *Hearing, supra* note 5, at 127 (prepared statement of Steven Metz); Godwin, *supra* note 30, at 28, col. 4, *Hearing*, at 109. Detailed accounts of RENAMO's brutality are widespread:

In Mozambique, we saw stupefied, starving children with eyes as big as dinner plates, adults with chests that looked like bird cages. There was one new twist for me anyway. I had never seen purposely mutilated people before, who had their noses or ears or fingers or whatever cut off by hand-held sharp instruments

about six million Mozambicans.⁶⁰ Perhaps the starkest testament to the severity of the situation is the exodus of over 350,000 Mozambicans — over half of whom fled to minority-ruled South Africa.⁶¹ “[W]hile the oppressive policy of apartheid in South Africa attacks human dignity and well-being, the brutality these refugees fled in Mozambique immediately threatened their very survival.”⁶²

Mozambicans remaining in Mozambique, as well as those who have fled, depend heavily on food and care supplied by international relief organizations.⁶³ Two problems threaten these relief efforts. First, RENAMO guerrilla forces have severely limited aid by disrupting supply routes to the needy.⁶⁴ Second, South Africa is generally unfriendly towards Mozambican refugees. The South African government expelled the International Committee of the Red Cross in 1986, thereby eliminating an “important source of material assistance and international protection for these refugees.”⁶⁵ The inhuman asylum neighboring countries grant to escaping Mozambicans is not a solution to the problems in Mozambique.

B. Prospects for Peace

For numerous reasons, a political solution to the insurgency is highly unlikely. First, FRELIMO refuses to recognize RENAMO as a legitimate organization. This political stand would be thwarted by entering into

[C]olor the people in old photographs of Auschwitz in all shades of brown and black, and you will be looking at what [people in Mozambique] see every day.

Vonnegut, *supra* note 49, at 17.

“Heinous and widespread atrocities against noncombatants—skulls crushed, infants boiled alive, throats slit, and women and girls brutally raped—have been reported by numerous eyewitnesses, [and are] ascribed most [frequently] to [RENAMO]” T. BRENNAN, *supra* note 4, at 4.

“One major factor . . . worked against RENAMO’s interests: its own brutality Rape and the severing of breasts, ears, and lips in retaliation for non-cooperation became common.” Gunn, *supra* note 11, at 158 (footnote omitted).

60. N.Y. Times, Aug. 15, 1990, at A5.

61. T. BRENNAN, *supra* note 4, at 4. One report states that almost 500,000 Mozambicans have fled the country and almost three million have been displaced within the nation. *Hearing*, *supra* note 5, at 197 (responses of Thomas Brennan to questions by Senator Simon). The refugee situation in Mozambique is among the world’s worst. *Id.* at 15.

The drought in Ethiopia gained worldwide attention in 1984 and 1985, yet over twice as many Mozambicans are affected by the crisis in Mozambique. *Id.* at 31 (statement of Thomas Brennan).

62. T. BRENNAN, *supra* note 4, at 4.

63. Mozambican refugees typically have been treated poorly by neighboring states; however, an overwhelming refugee presence coupled with prompting by the United Nations High Commissioner for Refugees has improved treatment for Mozambican refugees. *Id.* at 15.

64. *Hearing*, *supra* note 5, at 214-15 (responses of Terry Jeggles to questions by Senator Simon); *id.* at 56 (prepared statement of Chester Crocker); *id.* at 75-76 (prepared statement of Edward L. Sayers); see Vonnegut, *supra* note 49, at 16-17.

65. T. BRENNAN, *supra* note 4, at 18-19.

negotiations with RENAMO.⁶⁶ Second, whether RENAMO is sufficiently organized to enter and abide by negotiated agreements is uncertain.⁶⁷ Third, RENAMO is unlikely to cease its battle until FRELIMO abandons control of the government, and RENAMO has not indicated that it would settle for anything less.⁶⁸ Thus, the prospects for a negotiated settlement are "discouragingly dim."⁶⁹ A military victory for either party seems unlikely. Because neither organization appears to have the power to defeat the other, the war is currently caught in a violent stalemate.⁷⁰ To make matters worse, RENAMO has suggested that it will expand the war to the population centers of Mozambique and Zimbabwe.

Mozambique is a nation in desperate need of international aid to end the insurgency. To date, the efforts of foreign nations to end the war primarily have entailed providing economic or military aid to either RENAMO or FRELIMO. Such support has not brought peace to Mozambique. Peace can only be achieved by other means. Given the bitter antagonism between FRELIMO and RENAMO, some type of international military intervention will be required to end the insurgency. Indeed, even if the two organizations enter peaceful negotiations, Mozambique will need an international military presence to maintain peace and assure compliance with any agreed upon resolution.

III. Military Intervention in Mozambique

Unilateral military intervention⁷¹ in Mozambique has not ended the insurgency. In addition to its ineffectiveness, unilateral intervention is of questionable legality⁷² and may destabilize the region. Intervention by the United Nations, on the other hand, would potentially be effective in ending the insurgency and would neither violate international law nor

66. *Id.* at 25. However, Mozambique once negotiated with RENAMO and may be willing to do so in the future. *Hearing, supra* note 5, at 150 (response of Chester Crocker to questions by Senator Simon). Some argue that FRELIMO must take RENAMO seriously if it wishes to end the conflict, implying the need to negotiate. Godwin, *supra* note 30, at 28, col. 4, *Hearing, supra*, at 109.

67. "[T]here is insignificant evidence of the existence of a bona fide organization in structural and political terms . . ." *Hearing, supra* note 5, at 212 (response of Terry Jeggle to questions by Senator Simon). Indeed, RENAMO's leaders are generally unreachable. See *Focus on Africa* (BBC broadcast on June 1, 1984), reprinted in *Hearing, supra* note 5, at 117. However, the organization does seem to have a president. See Letter from Afonso Dhlakama to President Reagan (Nov. 27, 1986) (Dhlakama proclaims himself President of RENAMO), reprinted in *Hearing, supra* note 5, at 80.

68. RENAMO suffers from internal discord over whether it should settle for less than a complete military victory. *Hearing, supra* note 5, at 194 (responses of Steven Metz to questions by Senator Simon).

69. *Id.*

70. *Id.* at 33 (statement of Steven Metz); *id.* at 176 (responses of Chester Crocker to questions by Senator Helms).

71. See, e.g., *supra* notes 25, 26, 30, 31.

72. See *infra* note 98.

contribute to a regional cold war.⁷³

A. Benefits of United Nations Intervention

1. *Human Rights Benefits*

While the region has been plagued by recent droughts, much of the human suffering in Mozambique is caused or worsened by human brutality resulting from the insurgency.⁷⁴ Mozambique presents an opportunity to improve a horrendous human rights situation through international cooperation. Indeed, United Nations military intervention may be the only hope for ending "the agony of the non-Marxist, non-capitalist, nearly naked and utterly pitiful refugees."⁷⁵ The fact that Mozambique is currently receiving aid from both the U.S. and the Soviet Union suggests that both Eastern and Western nations have a stake in the Mozambican people and that the foundation for a major international relief effort has already been built.

2. *Financial Benefits*

Mozambique and other nations would benefit financially from military aid that would help end the insurgency. Many nations have spent large sums of money to aid Mozambique.⁷⁶ This money has largely paid for military supplies and necessities for those affected by the insurgency.⁷⁷ While military aid to Mozambique—as well as financial aid to rebuild the nation—would be expensive, an end to the insurgency would potentially end Mozambique's long-term dependence on foreign aid.

3. *Political Benefits*

Many nations politically desire FRELIMO's continued control of Mozambique's government. Unless military aid to FRELIMO increases, RENAMO's insurgency may overthrow the Mozambique government, replacing it with a minority-ruled South African puppet government.⁷⁸ Considering that South Africa is a formal enemy of the Soviet Union and has been condemned by the U.S., few, if any, nations would favor a South African puppet government ruling Mozambique. South African expansion is politically undesirable, and the re-institution of a minority-ruled government in Mozambique is morally intolerable. RENAMO is strong militarily; Mozambique's army, by contrast, is "intrinsically weak, underpaid, underfed, and undermotivated."⁷⁹ Indeed, Soviet support may be all that has prevented RENAMO from gaining control of

73. This Note recognizes that the U.S./USSR cold war has seemingly ended with Gorbachev's reforms and the USSR's shift away from socialism. Given the duration and intensity of the cold war and the threat of such "wars" in the future, however, the argument that unilateral aid may increase hostilities should not be disregarded.

74. See *supra* notes 59-65 and accompanying text.

75. Vonnegut, *supra* note 49, at 16.

76. See *supra* note 25, 26, 30, 31.

77. *Id.*

78. Rotberg, *supra* note 41, at 87-88.

79. Rotberg, *supra* note 33, at 5.

Mozambique's population centers.⁸⁰ The army, however, has demonstrated that with the help of foreign troops, weapons, technical support, and advice, it can launch effective attacks against RENAMO.⁸¹

4. *Benefits to the United Nations*

The United Nations Charter contemplated the United Nations as the primary intervener in international disputes.⁸² While the United Nations' past ineffectiveness has forced nations to act unilaterally,⁸³ unilateral intervention is both a cause and an effect of the underutilization of the United Nations. A United Nations military presence in Mozambique would fulfill the Security Council's duty to maintain international peace and security.⁸⁴ Such a commitment would set an important precedent for ending the United Nations' historic underutilization and ineffectiveness in maintaining international peace⁸⁵ and could restore international confidence in the United Nations.⁸⁶

a. Fulfilling the Duty of the Security Council

The Security Council has a duty to maintain international peace and security.⁸⁷ The situation in Mozambique involves a threat to international peace;⁸⁸ thus, the Security Council has a duty to intervene. Some type of military intervention almost certainly will be necessary to subdue or end the conflict in Mozambique;⁸⁹ thus, military intervention would

80. T. BRENNAN, *supra* note 4, at 14-15.

81. *Id.* at 14.

82. See J. SWEENEY, C. OLIVER, & N. LEECH, *CASES AND MATERIALS ON THE INTERNATIONAL LEGAL SYSTEM* 1304 (3d ed. 1988).

83. See *id.*

84. The U.N. Charter provides, "The Security Council *shall* determine the existence of any threat to the peace, breach of the peace, or act of aggression and *shall* make recommendations, or decide what measures shall be taken" U.N. CHARTER art. 39, para. 1 (emphasis added).

"[The U.N.] confer[s] on the Security Council primary responsibility for the maintenance of international peace and security, and agree[s] that in carrying out its *duties* under this responsibility the Security Council acts on [its] behalf." *Id.* at art. 24, para. 1 (emphasis added).

85. See *infra* note 105-06 and accompanying text.

86. The recent invasion of Kuwait by Iraq resulted in numerous U.N. resolutions allowing sanctions, blockades, and the use of military force against Iraq, and the U.N.'s actions received almost worldwide approval and support. This conflict appears to symbolize a new world order in which the U.N. will play a central role. While such increased reliance on the U.N. is certainly a step in the right direction towards the U.N. as world peacekeeper, further changes are needed. First, the conflict would have provided a perfect opportunity for use of a U.N. military body. Indeed, while many nations have become militarily involved in the crisis, such involvement lacks a unified U.N. command and has resulted in political disputes concerning each nation's "fair" contributions to the struggle against Iraq. Second, as this paper argues, civil disputes that lead to breaches of international peace merit U.N. military involvement. U.N. involvement in such disputes is necessary if the U.N. is to become a central force in world peacekeeping.

87. See *supra* note 84 and accompanying text.

88. See *infra* notes 175-85 and accompanying text.

89. See *supra* notes 66-70 and accompanying text.

be consistent with the Security Council's duty.

b. Increasing Confidence in the United Nations

The historical ineffectiveness of the Security Council largely was a result of political tensions between Eastern and Western countries.⁹⁰ The Gorbachev era, however, has been marked by a decline in such hostilities. This presents the Security Council with an opportunity to assume its role as peacekeeper and peacemaker.⁹¹ Indeed, the Soviet Union has become more willing to consider the United Nations in its foreign policy decisions, and there is an increased awareness that global problems require international cooperation.⁹² This new spirit of international cooperation should make the United Nations a more effective tool for international peace. Mozambique provides an excellent opportunity for the United Nations to restore international confidence in its peacemaking ability. Because Mozambique is politically non-aligned,⁹³ there should be minimal opposition to United Nations intervention on political or ideological grounds. Additionally, the horrific consequences of the RENAMO insurgency⁹⁴ make a compelling moral case for United Nations intervention. A successful United Nations intervention in Mozambique could help build faith in the organization, and this confidence in the United Nations may act as a self-fulfilling prophecy,⁹⁵ helping to rectify the United Nations' largest problems.⁹⁶

B. Problems with Unilateral Military Intervention

Unilateral—or multilateral—military intervention and aid pose numerous problems that can be avoided through United Nations intervention. First, unilateral aid tends to promote international tensions.⁹⁷ Second, unilateral military assistance may violate international law.⁹⁸ Finally, unilateral military aid can undermine the United Nations' efforts to resolve a dispute.

90. See *infra* notes 111-19 and accompanying text.

91. Tickell, *The Role of the Security Council in World Affairs*, 18 GA. J. INT'L & COMP. L. 309-10 (1988) (speech delivered Feb. 2, 1989).

92. *Id.*

93. See *supra* note 39 and accompanying text.

94. See *supra* notes 59-65 and accompanying text.

95. A self-fulfilling prophecy is a "prediction about some personal or social behavior that influences the actual behavior, so that the prophecy is confirmed by the result that it has caused." I. ROBERTSON, *SOCIOLOGY* 633 (2d ed. 1981). Confidence in the U.N. could strengthen the organization, thus justifying the confidence.

96. Confidence in the U.N. might help reduce Security Council problems such as the veto problem, the lack of a collective security system, and lack of financial resources.

97. A nation receiving aid may be more receptive to the donor's political and economic policies. Indeed, the donor may condition the aid on the donee's adopting such policies. See *supra* note 30.

98. The U.N. Charter prohibits all unilateral force unless it is used in self-defense. Additionally, merely offering military aid may constitute using force. See *Military and Paramilitary Activities in and against Nicaragua (Nicar. v. United States)*, 1986 I.C.J. 14, 146-50 (June 27, 1986).

IV. The United Nations as Peacemaker

Soon after the United Nations was created, Harry Truman said:

You have created a great instrument for peace and security and human progress in the world. The world must now use it. If we fail to use it, we shall betray all those who have died in order that we might meet here in freedom and safety to create it. . . . The successful use of this instrument will require the united will and firm determination of the free peoples who have created it.⁹⁹

Despite the early recognition that the United Nations would become effective only through voluntary compliance and support, the United Nations generally has not been utilized to maintain international peace. "Most national statesmen, while paying lip-service to the U.N. . . . have done precious little to develop and dramatize the great potentialities of the U.N. under the present Charter in the field of peace-keeping and pacific settlement."¹⁰⁰

Pursuant to the United Nations Charter, the Security Council¹⁰¹ has the "primary responsibility for the maintenance of international peace and security."¹⁰² The General Assembly has a secondary role in maintaining international peace.¹⁰³ Both bodies can authorize military intervention to further international peace in certain cases.¹⁰⁴

While maintaining international peace frequently requires military intervention, both the Security Council and the General Assembly face severe hurdles to recommending or mandating military intervention.¹⁰⁵ Some hurdles, such as the veto problem and the lack of a collective security system,¹⁰⁶ are problems unique to the Security Council. Other hurdles for the Security Council and the General Assembly are the lack of confidence in the United Nations, the lack of financial resources of the United Nations, and questions regarding the legal authority of the

99. Reprinted in R. HISCOCKS, *THE SECURITY COUNCIL: A STUDY IN ADOLESCENCE* 55 (1973).

100. *Id.* at 327 (quote by Benjamin Cohen).

101. The Security Council consists of 15 member states. U.N. CHARTER art. 23, para. 1. Five states—China, the U.S., France, the United Kingdom, and the Soviet Union—are permanent members. *Id.* Each member of the Council has one vote on all matters. *Id.* at art. 27, para. 1. The 10 non-permanent members are elected for two-year terms. *Id.* at art. 23, para. 2.

A "procedural" matter before the Council is passed with the affirmative vote of nine Council members. *Id.* at art. 27, para. 2. A "non-procedural" matter is likewise passed with the affirmative vote of nine Council members, but all non-procedural votes additionally require the concurrence of all five permanent members. *Id.* at para. 3.

102. *Id.* at art. 24, para. 1. Although the Security Council has the primary responsibility of maintaining "international peace and security," this responsibility currently is interpreted as being non-exclusive; thus other U.N. bodies (i.e., the General Assembly) may assume some responsibility for maintaining international peace. See *infra* note 123 and accompanying text.

103. U.N. CHARTER art. 24, para. 1; *id.* at art. 10, para. 1.

104. See *infra* notes 139, 162.

105. See *infra* notes 108-224 and accompanying text.

106. See *infra* notes 108-31 and accompanying text.

United Nations to authorize military intervention. This final problem — the legal authority to authorize military intervention — is especially troublesome in the case of civil disputes because of Article 2, paragraph 7, which limits the U.N.'s authority to intervene in matters essentially within a nation's domestic jurisdiction.¹⁰⁷

The United Nations potentially could overcome these hurdles to military intervention in the case of Mozambique. In addition, many of these hurdles would become less imposing if the United Nations took a more active role in peacemaking, in Mozambique or elsewhere.

A. Hurdles to Military Intervention Unique to the Security Council

1. *The Veto*

a. Overview

Because a non-procedural proposal before the Security Council may not be passed without the concurrence of all permanent Security Council members,¹⁰⁸ each permanent member has an absolute veto power over all such proposals. Although some commentators believe the veto is necessary,¹⁰⁹ the veto has been widely cited as a primary reason for the Security Council's impotence.¹¹⁰

Use—and abuse—of the veto began soon after the United Nations was formed. The Soviet Union believed the U.S. was using the United Nations as a means for carrying out its own policy objectives and responded by incessantly exercising its veto power.¹¹¹ By 1962, the Soviet Union had vetoed over 100 proposals,¹¹² and the Security Council was unable to act in any situation involving even a slight conflict between U.S. and Soviet interests.¹¹³

In the 1960s, use of the veto decreased¹¹⁴ for a number of reasons: warmer U.S.-Soviet relations, an increase in the size of the Council that allowed the votes of non-permanent members to defeat proposals unfa-

107. U.N. CHARTER art. 2, para. 7.

108. *Id.* at art. 27, para. 3.

109. See Tickell, *supra* note 91, at 307, 312.

[T]he veto is vital. First, the veto, paradoxically, does more than anything else to ensure that the United Nations bears some resemblance to the real world and is treated seriously as an organization Second, the veto ensures . . . that genuine international consensus is required before an action is taken which involves the international community as a whole Third, the permanent membership of those who exercise the veto brings to the Council a degree of continuity which it would not otherwise have.

Id.

110. See, e.g., R. HISCOCKS, *supra* note 99, at 72; T. S. BATRA, U.N. SECURITY COUNCIL: SNAPPING THE SNARE 31 (1977); COMMISSION TO STUDY THE ORGANIZATION OF PEACE, STRENGTHENING THE UNITED NATIONS 4, 79 (1957).

111. R. HISCOCKS, *supra* note 99, at 71.

112. *Id.*

113. See T. S. BATRA, *supra* note 110, at 31. "In all cases in which the permanent members had a stake, the right of using veto [sic] was unsparingly exercised." *Id.*

114. R. HISCOCKS, *supra* note 99, at 103.

avorable to East Bloc states,¹¹⁵ and the condemnation of indiscriminate usage of the veto.¹¹⁶ Furthermore, the "Uniting for Peace" resolution by the General Assembly required the General Assembly to consider and make recommendations regarding any matter of international peace not handled by the Security Council due to a veto.¹¹⁷ This resolution may have led the Security Council to lessen its use of the veto so that it could maintain its power.¹¹⁸

Despite the decrease in the use of the veto, it remains a major hurdle to United Nations action.¹¹⁹ While the veto problem has resulted in a greater role for the General Assembly in maintaining peace, the General Assembly simply does not have the same power as the Security Council to maintain peace.¹²⁰ Thus, the "Uniting for Peace" resolution is a very limited solution to the veto problem, and the United Nations will be severely limited unless the Security Council can overcome this problem.

b. The Veto Problem as Applied to Mozambique

The question of whether the veto problem can be overcome in the case of Mozambique—or in any case—is a political issue. The political issue is less problematic in the case of Mozambique because none of the Security Council's permanent members are formal enemies of Mozambique; indeed, many of these members actually aid

115. Prior to the Council's enlargement, Western nations dominated the Council, and the Soviet Union had difficulty in finding enough opposing votes to defeat a Western-backed proposal. R. HISCOCKS, *supra* note 99, at 100-01. Thus, the Soviet Union utilized its veto power to do so. *Id.* Since the Council was enlarged, the Council has typically contained a sufficient number of members willing to vote against Western proposals; thus, the Soviet Union has defeated proposals without using the veto. *Id.*

116. *Id.* at 103.

117. G.A. Res. 377, 5 U.N. GAOR Supp. (No. 20) at 10, U.N. Doc. A/1775 (1950).

[I]f the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately . . .

Id.; see R. HISCOCKS, *supra* note 99, at 293-94; T. S. BATRA, *supra* note 110, at 73-74.

It is generally accepted that the General Assembly has a secondary role in maintaining international peace. See R. HISCOCKS, *supra* note 99, at 288; U.N. CHARTER art. 24, para. 1. Some commentators feel that this secondary role violates the spirit of the Charter but is necessary. See R. HISCOCKS, *supra* note 99, at 291-93. But it is beyond dispute that the General Assembly has assumed increased responsibility in maintaining international peace. See, e.g., COMMISSION TO STUDY THE ORGANIZATION OF PEACE, *supra* note 110, at 238.

118. R. HISCOCKS, *supra* note 99, at 293.

119. For example, the U.S. recently vetoed a proposal that would have allowed the Security Council to take action against South Africa. U.N. CHRONICLE, Aug. 1986 (Lexis, Nexis Library).

120. The Security Council has the power to recommend or order enforcement actions, which may involve the offensive use of force. See *infra* notes 159, 162-64. In contrast, the General Assembly can only recommend peacekeeping actions, which are far less drastic than enforcement actions. See *infra* notes 134-35, 139-43.

Mozambique.¹²¹ It is therefore possible that none of the permanent members would veto a proposal to militarily intervene in Mozambique.

2. *Lack of a Collective Security System*

a. Overview

An international security force under the control of the Security Council would greatly increase the Council's power to pursue international peace. Article 43 of the United Nations Charter clearly contemplates such a security force:

1. All members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities . . . necessary for the purpose of maintaining international peace and security.¹²²

Efforts to establish an international security system pursuant to Article 43 have either failed¹²³ or produced relatively small forces.¹²⁴

The failure to fully implement Article 43 poses serious problems to military intervention by the Security Council. First, without a collective security force, the Security Council must improvise when assembling armed forces to take military action to secure peace.¹²⁵ Such forces will generally contain personnel from various nations who have not previously operated as a coherent unit under joint command.¹²⁶ In addition, organizing such forces—as well as having nations deploy such forces—further delays resolution of the problem and makes Security Council military action reliant upon the current political atmosphere of those countries asked to donate forces.

A second difficulty resulting from the failure to implement Article 43 is that the Security Council is less likely to make findings of, or take action against, international threats to peace when it lacks a ready means

121. See *supra* note 30.

122. See U.N. CHARTER art. 43, para. 1. R. HISCOCKS, *supra* note 99, at 75, 266. The drafters envisioned an army composed of forces from all member states, controlled by the Security Council, and utilized in cases of unilateral aggression by a common enemy. The Charter was probably designed with a situation like Hitler's unilateral aggression in mind.

123. An effort in 1946 failed due to squabbling. R. HISCOCKS, *supra* note 99, at 72-74. A mid-1960s effort was virtually abandoned by the early 1970s, despite the fact that many nations had troops and supplies earmarked for U.N. service. *Id.* at 280. Furthermore, the idea for a U.N. "Guard Force" began in 1948 and was abandoned, due largely to Soviet opposition. G. BROWN, B. BARKER & T. BURKE, *POLICE AS PEACE-KEEPERS* 4-5 (1984) [hereinafter G. BROWN].

124. See R. HISCOCKS, *supra* note 99, at 266-67. For example, the U.N. Field Service was established in 1949, yet by 1972 the entire force consisted of only 340 personnel. The Panel of Field Observers, also created in 1949, consists of 2,000 personnel and seldomly is utilized. *Id.* at 267-68.

125. *Id.* at 266. For example, the U.N. assembled its forces in Korea through a recommendation by the Security Council that member states contribute forces.

126. For a list of the nations contributing military aid to the U.N. for use in the Korean conflict, see 2 R. HIGGINS, *UNITED NATIONS PEACEKEEPING 1946-1967*, 199-210 (1970).

of enforcement.¹²⁷ Also, absent a collective security system, it is not politically feasible for the Security Council to order an enforcement action.¹²⁸ Indeed, some nations have argued that the Security Council cannot even recommend an enforcement action until Article 43 is implemented, although this view is not generally accepted.¹²⁹ One final problem in the non-implementation of Article 43 is that parties will be less likely to refer matters to the Security Council, believing the Security Council cannot adequately resolve the conflict. Clearly, a permanent international security force is needed.¹³⁰

b. The Lack of a Collective Security Force as Applied to Mozambique

While it seems unlikely that a major collective security force will be created in the near future, many nations would probably be willing to contribute to a United Nations force since they already support Mozambique militarily. These forces would not necessarily be used offensively¹³¹ or be engaged as combatants, thus minimizing domestic political opposition to contributing to a United Nations force. Therefore, while the problem of the lack of a collective security force will probably not be solved in the near future, this problem may be overcome in the case of Mozambique.

B. Hurdles to Military Intervention Common to Both the Security Council and the General Assembly

1. *Legal Basis for United Nations Military Intervention*

United Nations military intervention can be divided into two categories: peacekeeping and enforcement actions.¹³² Each category presents particular legal and practical obstacles to its usage, but these difficulties can be overcome in the case of Mozambique.

a. Peacekeeping Actions

One type of United Nations military intervention is a peacekeeping action. Such an action is currently untenable, but certain modifications in the situation in Mozambique could render it feasible. In a peacekeep-

127. S. D. BAILEY, *THE PROCEDURE OF THE U.N. SECURITY COUNCIL* 245 (2d ed. 1988); D. NICOL, *THE UNITED NATIONS: TOWARDS GREATER EFFECTIVENESS* 11 (1982) (quote by Jakobson). Some commentators argue that the Security Council should respond to disputes with less concern about loss of prestige from possible failure and more concern for the problem itself. See R. HISCOCKS, *supra* note 99, at 432.

128. R. HIGGINS, *supra* note 126, at 176.

129. *Id.* at 176-77.

130. See R. HISCOCKS, *supra* note 99, at 276 (citing view of U Thant, former Secretary-General of the U.N.); COMMISSION TO STUDY THE ORGANIZATION OF PEACE, *supra* note 110, at 5, 86. A collective security force could only be established in a cooperative political atmosphere. See R. HISCOCKS, *supra* note 99, at 276 (view of U Thant).

131. Peacekeeping forces generally use force only in self-defense. See *infra* note 135 and accompanying text.

132. See, e.g., Tickell, *supra* note 91, at 316; G. BROWN, *supra* note 123, at 3-6.

ing action,¹³³ as opposed to an enforcement action, the United Nations acts as an "impartial and uninvolved" peacemaker rather than as an involved enforcer.¹³⁴ The United Nations assists in the negotiation process and generally uses force only in self-defense.¹³⁵

Peacekeeping forces have been created by both the General Assembly and the Security Council, as each body has a distinct constitutional basis for creating them. While peacekeeping forces were probably not envisioned by the Charter's drafters,¹³⁶ their success has led to their acceptance, even by the Soviet Union,¹³⁷ which traditionally opposed peacekeeping forces as a usurpation of Security Council power.¹³⁸

(1) Constitutional Basis for Peacekeeping Forces

(a) Peacekeeping Forces Created by the General Assembly

There are at least two views on the constitutional basis of peacekeeping missions created by the General Assembly. Under one view, the General Assembly can establish peacekeeping forces with the consent of the involved nations simply because nothing in the Charter prohibits it.¹³⁹ Under a second view, Articles 10, 11, 14, and 22 provide a positive legal basis for peacekeeping missions established by the General Assembly.¹⁴⁰ This second view also holds that the General Assembly can recommend but not order such measures;¹⁴¹ a belief that is almost universally accepted.¹⁴² The International Court of Justice has upheld the General Assembly's power to create such forces based on specific Charter provisions.¹⁴³ Regardless of which interpretation is accepted, there is little doubt of the General Assembly's authority to create peacekeeping forces; thus the General Assembly would have a constitutional basis for creating peacekeeping forces in Mozambique.

(b) Peacekeeping Forces Created by the Security Council

While the Security Council has rarely specified a legal basis for creating peacekeeping forces,¹⁴⁴ it has apparently acted under both Chapter

133. The United Nations Emergency Force (UNEF), created by the General Assembly in response to the Suez Canal dispute in Egypt, was the first U.N. peacekeeping force. Since the Suez Canal mission, both the Security Council and the General Assembly have created peacekeeping forces. R. HISCOCKS, *supra* note 99, at 269.

134. G. BROWN, *supra* note 123, at 6.

135. R. HISCOCKS, *supra* note 99, at 116. The U.N. forces in the Congo were an exception to this general rule.

136. *Id.*; Tickell, *supra* note 91, at 311.

137. Tickell, *supra* note 91, at 311.

138. R. HISCOCKS, *supra* note 99, at 271.

139. 1 R. HIGGINS, *supra* note 126, at 262.

140. U.N. CHARTER arts. 10, 11, 14, 22; 1 R. HIGGINS, *supra* note 126, at 262.

141. 1 R. HIGGINS, *supra* note 126, at 262.

142. See, e.g., *Report of the Secretary-General*, 36 YEARBOOK OF THE U.N. 6 (1982).

143. Certain Expenses of the United Nations (Article 17, para. 2, of the Charter), 1962 I.C.J. 151, 164 (Advisory Opinion July, 20, 1962).

144. 1 R. HIGGINS, *supra* note 126, at 144.

VI¹⁴⁵ and Chapter VII of the United Nations Charter.¹⁴⁶ An action under Chapter VI requires the dispute to be "likely to endanger the maintenance of international peace and security,"¹⁴⁷ and empowers the Security Council only to recommend the creation of forces.¹⁴⁸ By contrast, an action under Chapter VII requires the existence of a "threat to the peace, breach of the peace, or act of aggression."¹⁴⁹ The Security Council, however, seldom makes such a formal finding prior to authorizing a peacekeeping mission.¹⁵⁰ Under Chapter VII, the Security Council can either recommend or order action.¹⁵¹

In the case of Mozambique, the Security Council could undoubtedly authorize a peacekeeping mission. Such a mission, whether authorized by the Security Council or the General Assembly, would face various practical difficulties.

(2) Practical Difficulties with a Peacekeeping Mission in Mozambique

Despite the success of peacekeeping forces, a peacekeeping mission in Mozambique would falter for numerous reasons unless current negotiations prove fruitful. First, peacekeeping missions fixate the status quo.¹⁵² This result is undesirable in Mozambique because the status quo is intolerable.¹⁵³ Second, peacekeeping missions facilitate negotiations,¹⁵⁴ but in Mozambique, FRELIMO refuses to legitimize RENAMO by negotiating with them.¹⁵⁵ Furthermore, if negotiations occurred, RENAMO would probably demand power within the government of Mozambique. If RENAMO is as brutal and unorganized as reports indicate, giving the organization any control is unconscionable. Third, peacekeeping missions generally require the objective nation's consent.¹⁵⁶ FRELIMO's refusal to negotiate with RENAMO indicates FRELIMO probably would not permit an unbiased peacekeeping mission. Indeed, Mozambique has made no request for forces. Finally, a United Nations' peacekeeping mission would likely damage the reputation of the United Nations because of the high probability of failure under the current circumstances.

While a peacekeeping mission to Mozambique currently is untenable, under certain conditions a mission could make sense. RENAMO must prove itself less violent than reports indicate. A simple rebuttal of

145. 2 *id.* at 349 (citing the Security Council's creation of the United Nations Commission on India and Pakistan).

146. 3 *id.* at 54 (citing creation of the United Nations peacekeeping mission in the Congo).

147. U.N. CHARTER art. 33, para. 1.

148. *See id.* at art. 36, para. 1.

149. *Id.* at art. 39.

150. 4 R. HIGGINS, *supra* note 126, at 144.

151. *See* U.N. CHARTER art. 39.

152. Tickell, *supra* note 91, at 316.

153. *Id.*

154. *See supra* note 135 and accompanying text.

155. *See supra* note 66 and accompanying text.

156. *See* COMMISSION TO STUDY THE ORGANIZATION OF PEACE, *supra* note 110, at 87.

these reports or an actual change in tactics could disprove RENAMO's violent reputation. RENAMO would also have to demonstrate some formal organization. A temporary cease-fire during negotiations could test RENAMO's organization. Compliance with the cease-fire would establish that the guerrilla activities in Mozambique's rural areas are under unified command. Furthermore, before a peacekeeping mission could occur, FRELIMO must be willing to negotiate with RENAMO and relinquish sole control of the government if necessary. The first two conditions — RENAMO showing both less brutality and a genuine organizational structure — would make this third condition more likely. Some of these conditions may be close to occurring, suggesting a peacekeeping mission may soon become tenable. However, if current talks collapse, then the United Nations may have to intervene through an enforcement action.

b. Enforcement Actions

Enforcement actions are the second type of United Nations military operation. The Korean conflict in the early 1950s is the only example of an United Nations enforcement action. Thus, Korea uniquely demonstrates the United Nations' use of military force "in a way envisaged by the Charter."¹⁵⁷

Unlike peacekeeping missions, enforcement missions seemingly do not require the consent of the disputing parties.¹⁵⁸ Enforcement actions also do not involve neutral forces; instead, the United Nations forces have a defined enemy. Furthermore, enforcement actions involve offensive, rather than defensive, use of force.¹⁵⁹

Although the United Nations has rarely used an enforcement action, "it may not be off [the agenda] forever."¹⁶⁰ The Soviet Union has shown a renewed interest in enforcement mechanisms,¹⁶¹ and the apparent end of cold war hostilities may lead to an increased spirit of cooperation allowing the Security Council to preserve international peace through enforcement actions.

(1) Constitutional Basis for Enforcement Actions

It is almost universally agreed that only the Security Council can authorize an enforcement action.¹⁶² This authorization is issued as either an

157. See, e.g., G. BROWN, *supra* note 123, at 5. The Security Council determined that the invasion of South Korea by North Korea was a breach of the peace and requested North Korea to withdraw its troops. North Korea ignored the resolution, and the Security Council, in lieu of organizing a United Nations security force, recommended (through a resolution) that U.N. members aid South Korea. Soon thereafter, the Council established a unified command of forces under U.S. control. See generally 2 R. HIGGINS, *supra* note 126, at 153.

158. Tickell, *supra* note 91, at 316.

159. *Id.*

160. *Id.*

161. *Id.*

162. See, e.g., Certain Expenses of the United Nations, *supra* note 143, at 163.

order¹⁶³ or a recommendation.¹⁶⁴ The threshold question¹⁶⁵ in determining whether the Security Council can recommend or mandate an enforcement action is whether the situation involves, under Article 39, a "threat to the peace, breach of the peace, or act of aggression."¹⁶⁶ The Charter does not define these terms,¹⁶⁷ but it is almost beyond dispute that they refer to threats, breaches, and aggression of an international nature.¹⁶⁸

An "act of aggression" has a different meaning than a "threat to the peace, [or] breach of the peace."¹⁶⁹ The General Assembly has defined an act of aggression as one state's unlawful use of force against another state, regardless of either state's membership status in the United Nations or recognition as a sovereign state by the international community.¹⁷⁰ An insurgency within a state is not an "act of aggression,"¹⁷¹ although foreign aid to an insurgency may be considered an "act of aggression" by the foreign state.¹⁷²

It is unclear whether an "act of aggression" has occurred in Mozambique. While South Africa has aided RENAMO in the past,¹⁷³ evidence of current South African support is probably insufficient to justify Security Council military intervention. Moreover, RENAMO's designation as a state within the meaning of Article 39 is doubtful,¹⁷⁴ so RENAMO's activity could not in itself be considered an "act of aggression." Thus, because evidence does not clearly establish an "act of aggression," the situation in Mozambique must involve a "threat to the peace" or "breach of the peace" if the United Nations is to undertake an enforcement action.

Unlike the term "act of aggression," the General Assembly has not defined the phrase "threat to the peace, [or] breach of the peace."

163. *Id.*

164. The only enforcement action authorized by the Security Council was issued as a recommendation. It stated: "[The Security Council] recommends that the Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area." 16 U.N. SCOR (474th mtg.) at 4, U.N. Doc. S/PV. 474 (1950).

165. See 2 R. HIGGINS, *supra* note 126, at 176.

166. U.N. CHARTER, art. 39.

167. A. M. RIFAAT, *INTERNATIONAL AGGRESSION* 122 (1979).

168. See, e.g., 2 R. HIGGINS, *supra* note 126, at 28 (quoting a former Security Council representative: "Under Article 39 we are alleging a breach of peace [W]e assume that this means a breach of international peace . . .").

169. See A. M. RIFAAT, *supra* note 167, at 122. An act of aggression seems to be, under current interpretation, a sufficient but not a necessary condition for finding a threat to peace.

170. *Id.* at 315.

171. *Id.* at 317.

172. *Id.* (suggesting that a just and lawful insurgency—as determined by the U.N.—may be able to receive aid without the grantor being termed an aggressor); Matheson, *Practical Considerations for the Development of Legal Standards for Intervention*, 13 GA. J. INT'L & COMP. L. 205 (1983) (speech).

173. See *supra* note 45 and accompanying text.

174. See J. SWEENEY, C. OLIVER, & N. LEECH, *supra* note 82, at 852 (citing Restatement § 201).

Indeed, there are no sharply defined legal standards to guide the Security Council in determining whether a "threat to the peace, [or] breach of the peace" exists.¹⁷⁵ Instead, the Security Council's decisions are based on vague, political factors articulated in its past decisions.¹⁷⁶ One significant factor in previous decisions is the "size and intensity" of a conflict.¹⁷⁷ Other factors include the existence and extent of foreign aid to states or organizations in the conflict, the legitimacy of the state or organization receiving aid, and whether the state requested that aid.¹⁷⁸ The dispute may also become internationalized when refugee problems or acts of violence occur in neighboring states due to a state's internal dispute.¹⁷⁹ Finally, gross human rights violations may make a conflict international in character.¹⁸⁰

Numerous factors make the dispute in Mozambique a breach of international peace. First, the refugee spillover is immense, and neighboring states may be unable to provide basic necessities for the refugees.¹⁸¹ Second, the fighting may soon spread to neighboring states.¹⁸² Third, numerous states continue to give military aid to both factions.¹⁸³ Fourth, RENAMO's brutality, and the fighting in general, have created a human rights situation some liken to a holocaust.¹⁸⁴ Fifth, governments and international organizations give Mozambique great sums of money for humanitarian aid, which is threatened by RENAMO.¹⁸⁵ Finally, an insurgency that continues for a decade and generates almost four million refugees must necessarily have international effects detrimental to international peace. Thus, the threshold requirement for an enforcement action — a "threat to the peace, breach of the peace, or act of aggression" — exists in Mozambique.

A second important issue in enforcement actions is whether an enforcement action can occur against states, governments, or organizations that the international community or the United Nations do not formally recognize. Chapter VII of the United Nations Charter does not limit enforcement actions only to recognized states.¹⁸⁶ Many civil wars involve organizations not recognized, yet civil wars can clearly threaten international peace.¹⁸⁷ Given the increasingly internal nature of armed disputes and because a non-recognized organization is able to disrupt international peace to the same extent as a recognized state, it would be

175. Szasz, *Role of the United Nations in Internal Conflicts*, 13 GA. J. INT'L & COMP. L. 345, 351 (1983).

176. *Id.*

177. *Id.* at 347.

178. *Id.* at 347-48.

179. *Id.* at 348-49.

180. *Id.* at 350.

181. See T. BRENNAN, *supra* note 4, at 16-24.

182. See *supra* note 70 and accompanying text.

183. See *supra* notes 26, 31, 44-48 and accompanying text.

184. Vonnegut, *supra* note 49, at 17.

185. See *supra* note 64 and accompanying text.

186. 2 R. HIGGINS, *supra* note 126, at 176.

187. *Id.*

untenable to view the Security Council impotent to undertake an enforcement action against a non-recognized organization. In Mozambique, RENAMO's non-recognition by most of the international community should not affect the Security Council's power to initiate an enforcement action.

Another enforcement action issue for the Security Council is whether its recommendation or mandate depends on the fulfillment of Article 43's call for the creation of a collective security force. While some nations believe a collective security force is a condition for an enforcement action,¹⁸⁸ a majority of nations believe that the implementation of Article 43 is not legally required.¹⁸⁹ Failure to implement Article 43 suggests, however, that politically an enforcement action could not be ordered, only recommended.¹⁹⁰ This apparent limitation may be irrelevant because once the Security Council approves an enforcement action at least nine states would likely be willing to contribute forces to such a mission.¹⁹¹ In addition, the Security Council probably would not issue orders, but rather achieve implementation through recommendations.

Thus, the Security Council clearly could find a constitutional basis for an enforcement action in Mozambique, leaving practical difficulties as the larger hurdle to such action.

(2) Practical Difficulties with an Enforcement Action in Mozambique

An enforcement action in Mozambique would involve various practical difficulties, but these difficulties could be overcome. One problem with enforcement actions is cost, which can be measured both economically, and by the loss of life. A nation's role in an enforcement action, however, could be limited to donating weapons, training, and strategic leadership, rather than combat troops. A second problem with enforcement actions is the lack of precedent for such limited involvement. However, a renewed interest in reviving enforcement mechanisms¹⁹² may overcome this problem. A third difficulty is that the United Nations would be forced to side with either FRELIMO or RENAMO, and almost surely would choose FRELIMO.¹⁹³ Aiding FRELIMO, however, would put the United Nations in a position of fighting for a non-democratic organization against a group that at least purports to be in favor of establishing a democracy. Perhaps the United Nations could overcome this dilemma by conditioning military intervention on FRELIMO's promise to work toward democracy.

188. *Id.* at 176-77.

189. *Id.*

190. *Id.* at 176.

191. Passing a proposal takes nine affirmative votes. U.N. CHARTER art. 27, paras. 2, 3.

192. See *supra* note 160-61 and accompanying text.

193. No precedent exists for the Security Council allowing an enforcement action against a recognized nation to protect an unrecognized group.

2. *The Article 2 Domestic Jurisdiction Hurdle*

Article 2, paragraph 7 (hereinafter "Article 2") is particularly important in civil disputes because it attempts to define the extent to which the United Nations can intervene in a country's internal affairs. The Article's language is open-ended and leaves much uncertainty as to the limits of the United Nations' intervention power, military or otherwise. This ambiguity reduces the likelihood of United Nations intervention in questionable cases.

In the Mozambican conflict, Article 2 could be interpreted to allow for military intervention; indeed, this interpretation would be in accord with the views of some commentators.¹⁹⁴ Mozambique exemplifies the necessity of giving a broad and concrete interpretation to the United Nations' power to intervene in civil wars.

a. Overview

The United Nations Charter was designed primarily in response to major acts of aggression that clearly crossed international borders.¹⁹⁵ Currently, aggression is increasingly internal and often funded by foreign states which do not directly participate in the conflict. Indeed, most violence in the post-Charter years has resulted from either "civil or mixed civil-international conflict."¹⁹⁶ "[O]ne of the greatest challenges to the United Nations system for control of coercion in the world [is] the problem of intervention and counter-intervention in internal conflicts."¹⁹⁷ The Security Council must interpret Articles 2 and 39 of the Charter, which bear on the problem of civil and mixed civil-international conflicts, to give the United Nations a role in ending such conflicts.

These articles raise a number of legal questions. Article 2 states:

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.¹⁹⁸

Chapter VII, Article 39, states:

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.¹⁹⁹

194. See Moore, *Legal Standards for Intervention in Internal Conflicts*, 13 GA. J. INT'L & COMP. L. 191, 193-94 (1983) (speech).

195. *Id.*

196. *Id.* at 191.

197. *Id.*

198. U.N. CHARTER art. 2, para. 7.

199. *Id.* art. 39.

Article 2 raises questions as to what constitutes "matters which are essentially within . . . domestic jurisdiction" and how this relates to the exception to Article 2—"enforcement measures under Chapter VII." A related jurisdictional issue is what constitutes a "threat to the peace, breach of the peace, or act of aggression" under Article 39.²⁰⁰ An Article 39 finding is required for the Security Council to undertake an enforcement action and would justify an enforcement action under the Article 2 exception.

The primary legal question under Article 2 is what constitutes a "matter . . . essentially within the domestic jurisdiction of any state." The United Nations has never formally defined this phrase. The International Court of Justice has addressed Article 2 issues but has left its precise definition an open question.²⁰¹ Member nations and commentators have advanced at least three interpretations of this phrase.²⁰²

One interpretation is that once the United Nations considers an issue, the issue is no longer essentially within a state's domestic jurisdiction under Article 2.²⁰³ This view is untenable because it is absurd to believe any nation would condone such a limited view of domestic jurisdiction.²⁰⁴

A second interpretation is that any dispute involving a threat to international peace is not "essentially within . . . domestic jurisdiction."²⁰⁵ Under this view, the Security Council can intervene without violating Article 2 once it finds a threat to international peace. The General Assembly, in accordance with its secondary role as international peacekeeper, could also respond to a threat to international peace without violating Article 2.

A third interpretation of Article 2 is that even a threat to international peace does not necessarily take a dispute out of a state's jurisdiction.²⁰⁶ In other words, a dispute can disrupt international peace yet still be essentially domestic within the meaning of Article 2. Under this view, the United Nations' authority to intervene is in Article 2's final phrase, which creates a specific exception in the case of a Chapter VII enforcement action.²⁰⁷ The Security Council has exclusive authority to make a finding under Article 39 and mandate an enforcement action under Chapter VII. Thus, only the Security Council can mandate an enforcement action in the case of a domestic dispute that disrupts international peace.

Given that the Security Council's determination as to the existence

200. See *supra* notes 175-80 and accompanying text.

201. See *Certain Expenses of the United Nations*, *supra* note 143, at 196-97 (separate opinion of Sir Percy Spender).

202. Szasz, *supra* note 175, at 345-54.

203. *Id.* at 346.

204. *Id.*

205. *Id.* at 346-47.

206. *Id.* at 352-53.

207. *Id.*

of a threat to international peace is an issue subject to veto,²⁰⁸ and given the Security Council's difficulty in overcoming the veto problem,²⁰⁹ the United Nations is unlikely to intervene in civil disputes if it adopts the third interpretation of Article 2. Indeed, even peacekeeping missions—the most common type of United Nations military intervention—seem to exceed the authority of the United Nations when the dispute threatens international peace but is essentially domestic.²¹⁰ As a practical matter, however, a peacekeeping mission generally requires the host state's consent, making an Article 2 objection by that state unlikely.²¹¹ Consequently, the third interpretation of Article 2 may not necessarily prevent United Nations intervention through a peacekeeping mission.²¹² In summary, the third interpretation of Article 2 imposes serious political obstacles that make United Nations intervention less likely than under the second interpretation.

Unlike the third interpretation, the second interpretation of Article 2 views threats to international peace as necessarily outside a state's domestic jurisdiction. Therefore, the General Assembly has a greater responsibility in solving civil and civil-international conflicts and could freely authorize United Nations intervention. Under the second interpretation, United Nations military intervention would be less vulnerable to legal criticisms and each intervention would act as a valuable precedent for future United Nations intervention.

The second interpretation, however, has been criticized. Critics argue that this approach accepts the Security Council's impotence, ignores the benefits of the veto, and allows the General Assembly to intervene in predominantly domestic conflicts.²¹³ From a practical standpoint, these criticisms may not be problematic. Given the success and limited intrusiveness of General Assembly peacekeeping mis-

208. T. S. BATRA, *supra* note 110, at 31.

209. See *supra* notes 108-20 and accompanying text.

210. Under Article 2, paragraph 7, a matter essentially within a state's domestic jurisdiction is outside of U.N. jurisdiction except in the case of enforcement actions pursuant to Chapter VII. See U.N. CHARTER art. 2, para. 7. A peacekeeping action is not an enforcement action under Chapter VII. See *supra* notes 139-40, 146 and accompanying text.

211. Certain Expenses of the United Nations, *supra* note 143, at 297 (dissent of Judge Bustamante).

As to the principle of non-intervention in matters within domestic jurisdiction, it is beyond dispute that the Organization has not in fact committed any infringement in the case of the Congo, since it was the Government of that State which, on its own initiative, asked for the assistance of the United Nations.

Id.

212. This interpretation of Article 2, paragraph 7, raises questions as to whether U.N. members are required to contribute funds to such actions. It is questionable whether a U.N. member should be forced to pay the U.N. to help a nation with essentially domestic matters. See generally *id.* Furthermore, consent to U.N. intervention arguably does not remove a matter from a state's domestic affairs; thus, U.N. intervention might be ultra vires (due to Article 2, paragraph 7, despite the host state's consent).

213. *Id.*

sions,²¹⁴ the missions should be utilized in as many situations as possible that threaten international peace under the language of the Charter.

Another criticism of the second interpretation of Article 2 is that it renders the exception to Article 2 superfluous. If a breach of international peace takes a dispute outside a state's domestic jurisdiction, then the Security Council could legally initiate a Chapter VII enforcement action without considering the Article 2 exception. This criticism is based upon the principle of statutory interpretation which says that a statute should be interpreted so as not to render a clause useless.²¹⁵

There are three responses to the criticism concerning the superfluity of Article 2's exception. First, at some point practical concerns supercede maxims of interpretation, especially on an issue as important as international peace. Second, the exception to Article 2 may be viewed as a reassurance that Article 2 does not impair United Nations action when a situation merits an enforcement action. Finally, Article 39 may be interpreted as giving the Security Council authority to react to any breach of the peace, regardless of whether the breach is international in scope. Such an interpretation, while not generally accepted, is feasible, because Article 39 does not specify that breaches must be international. While Article 39 has been interpreted to require an international breach, the fact that the language of Article 39 does not explicitly state such a requirement renders the exception to Article 2 quite relevant. For if Article 39 would allow the Security Council to authorize an enforcement action against a threat to peace that is not international, Article 2 would certainly preclude an enforcement action if not for the exception.

Thus, the criticisms of Article 2's second interpretation can be overcome. The benefits of the second interpretation far outweigh its drawbacks and the U.N. should adopt it.

b. Article 2 as Applied to Mozambique

The first question in determining whether Article 2 would prevent United Nations military intervention in Mozambique is whether the dispute is essentially within Mozambique's domestic jurisdiction. Under the second interpretation of Article 2, the dispute would not be essentially within Mozambique's domestic jurisdiction because the dispute disrupts international peace.²¹⁶ Thus either the Security Council or the General Assembly could authorize military intervention without violating Article 2. Under the third interpretation, however, it is uncertain whether the matter is essentially within Mozambique's domestic jurisdic-

214. Peacekeeping missions generally require the host state's consent. *See supra* note 156. U.N. peacekeeping forces will typically use force only in self-defense, *see supra* note 135, and will attempt to act in an impartial and uninvolved manner. *See supra* note 134 and accompanying text.

215. *See, e.g., Town of Milton v. Metropolitan Dist. Commission*, 172 N.E. 2d 696, 342 Mass. 222 (1961).

216. *See supra* note 205 and accompanying text.

tion. Although the Security Council could clearly initiate an enforcement action based on the Article 2 exception, it is unclear whether a peacekeeping action could occur without violating Article 2 and whether member states would have a legal obligation to contribute funds.²¹⁷

Mozambique presents a situation that demonstrates why the United Nations should adopt the second interpretation of Article 2. This interpretation would give the Security Council and the General Assembly a strong legal basis for intervening in internationally disruptive civil conflicts like the one in Mozambique.

3. *Lack of Confidence in the United Nations as a Hurdle*

a. Overview

The international community's confidence in the Security Council and the United Nations greatly affects the United Nations' effectiveness. An improved attitude towards the United Nations would lessen many of the Security Council's problems, especially the veto problem,²¹⁸ the finance problem,²¹⁹ and possibly the collective security system problem.²²⁰ The international community's lack of support for and confidence in the United Nations is arguably the United Nations' most serious problem.²²¹

The lack of confidence and support for the United Nations manifests itself in numerous ways. First, certain matters that clearly concern international peace and security are not placed on the Security Council's agenda. When states lack confidence in the United Nations, they are likely to resort to regional organizations or unilateral action.²²² Second, the United Nations requires financial support, and lack of confidence leads to insufficient funding. Finally, a collective security system will not develop if nations lack confidence in the United Nations. Thus, without increased confidence in and support for the United Nations, both it and especially the Security Council are likely to remain underutilized, underfunded, and unable to implement an enforcement mechanism.

b. Intervention in Mozambique Enhancing Confidence in the United Nations

While the current lack of confidence in the United Nations is a major hurdle to United Nations action in Mozambique, United Nations intervention could build confidence in the United Nations and the Security Council and encourage their future use. Indeed, nations will not respect

217. See *supra* note 212.

218. See *supra* notes 108-20 and accompanying text.

219. See *infra* note 223-24 and accompanying text.

220. See *supra* notes 122-30.

221. See, e.g., S. D. BAILEY, *supra* note 127, at 7 (statement of former U.S. Ambassador Charles Yost) ("I do not think the fault [of the Security Council] really lies primarily in the Charter. I think it lies in the policies of the various governments.").

222. R. HISCOCKS, *supra* note 99, at 190.

the United Nations if it does not act. Only through confident action can the United Nations begin to approach the degree of effectiveness envisioned by its creators.

4. *Lack of Financial Support as a Hurdle*

a. Overview

The United Nations' lack of funds is a serious problem. The Security Council requires large sums of money, especially if it is to develop a collective security system. Nations, especially the U.S.,²²³ have been in arrears on United Nations dues, and the international community has generally been "extraordinarily niggardly in providing money for international purposes."²²⁴

b. Financial Resources and Intervention in Mozambique

The current lack of financial resources is a major hurdle to United Nations action in Mozambique. Given that many nations currently provide financial support to Mozambique and that Mozambique's need would likely diminish once the insurgency ends, it might be economically efficient to invest in ending the insurgency. Furthermore, a successful United Nations mission in Mozambique would generate confidence in the United Nations and encourage greater financial support for the United Nations in the future.

Conclusion

Civil conflicts may present grave threats to world peace. If the United Nations is ever to achieve its function as a major force for world peace, the United Nations Charter must be interpreted to give the United Nations broad powers to intervene in civil conflicts that threaten international peace. Furthermore, United Nations military action in such conflicts would symbolize international cooperation and build faith in the United Nations as a force for peace. Given the recent decline in tensions between East and West, and the increased interest in utilizing the Security Council, the United Nations appears ready to begin fulfilling its intended role.

If, as expected, the conflict in Mozambique continues, the United Nations should fulfil its duty as world peacekeeper through military intervention. The conflict has led to a breach of international peace and a dreadful human rights situation, thus justifying United Nations intervention. And even if the Mozambican conflict ends without United Nations intervention, earlier United Nations involvement may have shortened the conflict and reduced its devastating consequences.

William Gehrke

223. Tickell, *supra* note 91, at 310-11.

224. R. HISCOCKS, *supra* note 99, at 314-15. It is estimated that the money spent on the Vietnam War in one year could support the U.N. for 185 years. *Id.*